



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

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Arnold Schwarzenegger
Governor

January 25, 2010

Nardy Khan
Department of Public Works
County of Orange
300 North Flower Street
Santa Ana, CA 92702

CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS CERTIFICATION FOR THE BARRANCA CHANNEL (F09) MAINTENANCE REPAIR PROJECT, IN THE CITY OF IRVINE, ORANGE COUNTY (ACOE REFERENCE NO. NOT AVAILABLE) (SARWQCB REFERENCE NO. 302009-47)

Dear Ms. Khan:

On October 7, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification) for channel stabilization and repair work in Barranca Channel (F09) in the City of Irvine, Orange County. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) Basin Plan and subsequent Basin Plan amendments:

Project Description: Repair of bank erosion at three locations along Barranca Channel totaling 320 linear feet on both sides of the channel. The repair will include the installation of 18" riprap (rock) at the three locations. The riprap quantity is estimated at 1,280 cubic yards (cy) (approx. 105 cy to be placed within potential Corps/RWQCB jurisdiction). The earthen bank will be graded to the appropriate slope before installation of the riprap. Approximately 1,000 cy of soil will be removed during this process (approx. 85 cy to be removed from Corps jurisdictional areas). Water will be present in the channel during construction; however water diversion is not proposed for this project. Temporarily-impacted areas within the channel will be allowed to re-vegetate naturally. Removed material will be stockpiled on an un-used portion of the access road and allowed to dry prior to being transported to a landfill.

California Environmental Protection Agency



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All staging areas will be entirely within existing access roads on either side of the channel. The project will take place within Section 5 of Township 6 South, Range 9 West, of the U.S. Geological Survey *Tustin, California*, 7.5-minute topographic quadrangle map (Site 1: 33.6807369 / -117.8419094, Site 2: 33.6846596 / -117.8414846, Site 3: 33.6888483 / -117.8397916).

Receiving water: Barranca Channel, a tributary of San Diego Creek/Upper Newport Bay.

Fill area: 0.144 acre of permanent impact to streambed and 0.002 acre of permanent impact to wetland (320 linear feet total).

Dredge volume: 85 cubic yards.

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 13.

You have proposed to mitigate water quality impacts as described in your Certification application. The proposed mitigation is summarized below:

Onsite Water Quality Standards Mitigation Proposed:

- Additional Best Management Practices ("BMPs") will be specified in the project Storm Water Pollution Prevention Plan ("SWPPP").
- Temporarily-impacted areas within the channel will be allowed to re-vegetate naturally.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2009-0009, commonly known as the Orange County Municipal Storm Water Permit.

Construction de-watering discharges may be regulated under Regional Board Order No. R8-2009-0003, General Waste Discharge Requirements for Discharges to Surface Waters that Pose an Insignificant (De Minimus) Threat to Water Quality.



For more information, please review Order No. R8-2009-0003, NPDES No. CAG 998001, at the Regional Board's website: www.waterboards.ca.gov/santaana/.

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act (CEQA), Orange County Public Works filed a CEQA Guidelines Section 15301(b) "Class 1" Categorical Exemption, which declares that the project consists of the reconstruction of existing facilities where the new facilities will be located on the same site as the facilities replaced and will have substantially the same purpose and capacity as the facilities replaced. The proposed project will not expand the channel beyond its original design capacity. The Regional Board has considered the County's Categorical Exemption in the issuance of this Certification and finds that no changes or alterations to the proposed project are necessary to avoid or mitigate impacts to water quality to a less than significant level.

This 401 Certification is contingent upon the execution of the following conditions:

The applicant must comply with the requirements of the Clean Water Act section 404 permit.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law.



January 25, 2009

For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at http://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Yvette Cardenas
Department of Fish and Game – Naeem Siddiqui
State Water Resources Control Board, Office of Chief Counsel – David Rice
State Water Resources Control Board, DWQ-Water Quality Certification Unit – Bill Orme
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini and David Smith

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